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SUBJECT: JUSTICE AND PEACE BECOMES LAW

REF: A. BOGOTA 3555

[¶](#)B. BOGOTA 3223

¶11. (U) Summary: More than a year after the government introduced its first draft and after six months of intensive debate, the demobilization legislation commonly known as the "Justice and Peace" law was passed by the Senate and House plenaries on June 20 and 21, respectively, and the conference committee version was completed on June 22. The law calls for a five to eight year period in confinement for confessed serious crimes, six to nine or more years of confinement for unconfessed serious crimes, a probation period of half the time in confinement, investigations of criminal activity, and reparations to victims. The final text includes some suggestions from the international community and rival draft bills. It opens the door to future demobilizations and puts in place a structure to dismantle demobilized illegal armed groups, but effective implementation will be key to success. End summary.

Goal: Peace With Justice

¶12. (U) The Law for Justice and Peace's objective is to reduce violence by inducing members of the illegal armed groups (IAGs) to renounce terrorism in exchange for reduced punishment. Without this legislation, only demobilized persons guilty of minor crimes (membership in an IAG, rebellion, etc.) have been eligible for pardon.

¶13. (U) Since late 2003, the GOC grappled with the difficult issues of balancing peace and justice and dismantling the criminal structures of demobilized IAGs. The final text was the result of an extensive debate in Congress and wider society and passed by ample majorities in both Houses of Congress. The law went through numerous changes and incorporated elements from alternate drafts and the views of the international community and civil society. Prior to the committee debate, the GOC and the principle opposition group led by Senator Rafael Pardo tried to reach consensus on their two competing drafts. The GOC adopted entire sections of the Pardo version, including on victims' rights and on the definitions of truth, justice, and reparation.

Key Steps

¶14. (U) Confession: Each beneficiary will give an open declaration ("version libre") to the Prosecutor General's Office (Fiscalia) about his criminal activity. Any crimes intentionally concealed will be prosecuted under the normal criminal code and are not eligible for an alternative sentence. The beneficiary is free to choose which crimes he confesses, but the government retains the right to try him under ordinary law for any crimes he conceals. This provides a strong incentive for an ex-terrorist to admit all his crimes. As a further incentive, unintentionally omitted crimes could receive a 20 percent longer alternative sentence (six to nine and a half years).

¶15. (U) Eligibility requirements: No crimes committed before membership in the IAG can be included in the benefits. No one who associated himself with a terrorist organization to cover his previous crimes will be protected from punishments for those crimes. A beneficiary or the IAG to which he belonged must have (1) demobilized, (2) turned over all illicit assets, (3) turned over all minors who were with the IAG, (4) ceased all interference in public and political liberties and all other illicit activity, (5) not been principally devoted to drug trafficking or illicit enrichment, and (6) freed all kidnap victims.

¶16. (U) Extradition: By design, the law does not mention extradition. The GOC has repeatedly stated that the law will not impede extradition and that the issue is non-negotiable. Through reference to Colombian Law 67, the law rejects a juridical connection between political crimes and drug trafficking, so that the constitutional prohibition against extradition for political crimes does not come into play. Others who have committed political crimes, such as FARC commander Simon Trinidad, have been extradited for their non-political crimes. The Justice and Peace Law is designed

so that these same regulations will apply. As an additional safeguard, the law states that alternative sentences can be served abroad, so even in cases where an ex-terrorist has benefited under the law, extradition remains a possibility.

¶7. (U) Investigation: A special Fiscalia unit will have 60 days to investigate and report findings to the Superior District Court. The Court will decide the length of the alternative sentence (five to eight years) and auxiliary punishments, including reparations and parole.

¶8. (U) Confinement: Each beneficiary will be held in confinement for five to eight years. Confinement zones will be under full government control and must meet standards issued by the National Prisons Institute. The jail terms are close to those advanced in one of the principle alternative draft laws, which enjoyed wide international support.

¶9. (U) Parole: Each beneficiary will be on parole for half of his alternative sentence (two and a half to four years).

¶10. (U) Revocation of benefits: The law clearly states that any return to criminal activity after demobilization or failure to obey the law's requirements will result in revocation of all benefits and prosecution under the normal criminal code. The individual in question will be subject to arrest for the crimes he already committed and the new ones.

¶11. (U) Reparations: All beneficiaries are required to give material and symbolic reparations to victims. The law establishes a detailed structure to identify and distribute the assets of the demobilized terrorists to victims. A National Reconciliation and Reparations Committee will oversee the process. Taken together with the asset forfeiture law, the government now has two powerful tools to divest ex-terrorists of their wealth, and the influence their wealth can purchase.

¶12. (U) Legal framework: The law establishes a framework for demobilization, disarmament, separation of leaders from their followers, identification of ex-terrorists, renunciation by them of terrorism, training and assistance for reinsertion into society, and monitoring of their activities following demobilization.

Implementation Crucial

¶13. (U) The law opens the door for future collective and individual demobilizations of paramilitaries and guerrillas. Much will depend on careful implementation and strict adherence to the law's principles of truth, justice, and reparation. The GOC will need to designate enough personnel and equipment to investigate, monitor, and provide reinsertion services to the demobilized and to seize and distribute assets in reparation to victims. Implementation of a law this complex will undoubtedly create unintended consequences and ambiguities, but for now, it is a viable draft and a step in the right direction.

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